

C2  
cont.  
a lid closing the receptacle so that the lid and receptacle when installed, are disposed below an upper floor surface and wherein the lid insert and receptacle are arranged so that when the grate or appliance outlet is disposed in the lid, surface water on the floor can escape only via the inside of the receptacle.

---

#### **REMARKS**

Reconsideration and withdrawal of the rejection with respect to all of the claims now in the application (i.e., Claims 33-48) is respectfully requested in view of the foregoing amendments and the following remarks.

By this Amendment, the independent claims 33, and 46-48 have been amended to highlight the feature that the assembly including the lid/insert is disposed so that it is below the floor surface. More particularly, Claim 1 has been amended to recite the feature that the "insert forms a lid closing the receptacle so that the lid and receptacle are disposed below an upper floor surface". In addition, the independent claims have been amended to recite the fact that the lid insert and receptacle are arranged so that when the grate or appliance outlet is disposed in the lid, surface water on the floor may escape only via inside the receptacle. These amendments highlight the fact that the insert/lid and receptacle are disposed below the upper floor surface and accordingly ensure that any water which may leak around the periphery of a grate or appliance outlet inserted in the lid/insert can only find its way inside the receptacle instead of outside the receptacle as is the case with the prior art. As will be discussed in greater detail hereinafter, it is

respectfully submitted that the claims, as now amended, are neither anticipated nor rendered obvious by the cited art.

More particularly, as noted above, the difference between the arrangement of the present invention and that of the product disclosed in the Australian Patent No. 710,604 and for that matter the products in all of the citations is that the assembly according to the invention is below floor level but not above. This is so even when the lid is inserted. When a grate or appliance is inserted in the insert /lid of the receptacle, water draining from a floor surface can only escape via the receptacle. In the case of the arrangement of figure 2 of '604 it can be seen that floor surface water percolating under the floor surface will be prevented from entry into the receptacle. Thus, in '604 the wall 24 tends to dam any water which percolates through the floor and acts as a barrier to floor surface water escape. The device of the present invention includes a lid which performs the dual functions of allowing floor surface water to escape via the receptacle and, at the same time, allows appliance water to also escape via the receptacle. The traditional problem with floor wastes has been percolation of water about the outside of the grate or waste instead of inside. The latter problem has often lead to rotting of the floor and in time general degradation of subfloor structure. Claim 1 has been amended to reflect the feature that the assembly ( including the lid/insert) is disposed so that it is below the floor surface unlike all the devices disclosed in the citations.

The Australian citation discloses a waste assembly which is disposed (and may only be mounted) above floor level whereas the present invention is mounted below floor level.

The citation has a mutually interacting rotatable lid which can rotate relative to the body of the receptacle. The present invention includes a lid or cover which is permanently set in place ( such as by gluing) and below floor level unlike the cover 21 of the cited art. This allows complete water proofing of the floor and surrounding structure.

It is best to think of the present invention as the receptacle and insert without the grate or appliance outlet connected as that is usually connected by the end installer. The assembly is sold by the supplier as a receptacle and insert. That whole assembly sits below a floor in which it is installed.

Another characteristic of the invention is that since the receptacle and insert/lid are below floor level, an installer is able to seal the insert with known sealing compounds and create a natural fall to the grate or appliance outlet. This ensures that floor surface water can escape only through the receptacle ( even where it may find passage about the outside of a grate or appliance outlet in the insert). All of the equivalent prior art devices allow the possibility of unwanted ingress of water about a grate or appliance outlet and therefore outside the receptacle. When floor cladding is installed over the sealing layer there will be a natural fall to follow. In the prior art assemblies, a fall to the grate had to be created in the tile layer as the substrate was essentially level with no natural fall. The present invention eliminates the total reliance on a floor cladding to provide the fall. As the insert is below surface, any water either from the floor surface or which percolates through the floor surface, will naturally gravitate to the grate.

As to the rejection of the claims based upon the other cited references, as specifically set forth in paragraphs 3-7 of the Office Action, it is believed that the above-noted claim amendments are also neither disclosed nor suggested by these references

since they also do not disclose or suggest a provision of a lid and receptacle below the upper floor surface as presently set forth in each of the independent claims. Accordingly, for these reasons as well as the reasons advanced in Applicant's last Amendment, it is believed that the amended claims are patentably distinguishable over these references as well.

Applicant hereby requests a one-month extension of time to respond to the outstanding Office Action. A PTO-2038 in the amount of \$55.00 is enclosed herewith for the official fee associated therewith. In the event of any deficiency for the required amount for an extension of time, please debit Deposit Account No. 07-0130.

In view of the foregoing, it is respectfully submitted that all of the claims now in the application are patentably distinguishable over the references of record. Accordingly, reconsideration and withdrawal of the rejection and allowance of the claims at an early date are earnestly solicited.

Dated: October 28, 2002

Respectfully submitted,



Thomas M. Galgano, (27,638)  
GALGANO & BURKE  
Attorneys for Applicant  
300 Rabro Drive, Suite 135  
Hauppauge, NY 11788  
(631) 582-6161

Enclosure: Version With Markings to Show Changes to Claims  
PTO-2038 form in the amount of \$55.00 for one-month extension of time  
Postcard